

Appln No. 09/919,365
Amdt date June 19, 2006
Reply to Office action of December 19, 2005

REMARKS/ARGUMENTS

This Amendment is submitted in response to the Office Action dated December 19, 2005. Claim 19 has been added. Claims 1, 10, 14, and 18 have been amended. No new matter has been added. Claims 1-19 are now pending. In the Office Action, claims 1-18 were rejected under 35 USC §102(e) as being allegedly anticipated by Ash (U.S. Patent No. 6,590,867). Applicant thanks the Examiner for attending to the application.

Substance of Telephone Interview:

Applicant thanks the Examiner for the Telephone Interview of March 22, 2006. Pursuant to MPEP 713.04, this section memorializes the telephone interview between Examiner John B. Walsh and Attorney Andrew D. Sitzer 53,601, a representative of Applicant, on March 22, 2006.

Participants discussed differences between claims 1 and 5 and the Ash reference.

The first difference discussed was that Ash does not disclose "satisfying by the network server the flow request using the path-level data if the network server determines the network server can satisfy the flow request using the path-level data; and satisfying by the network server the flow request using the link-level data if the network server determines the network server cannot satisfy the flow request using the path-level data", as in claim 1. Applicant agreed to amend claim 1 to recite, "satisfying by the network server the flow request if there is a lack of path-level data".

The other difference discussed was that Ash does not disclose a path-level database and a link-level database, as in claims 1 and 5. Applicant's representative understood the Examiner agreed to further consider claim 5 in view of this difference. Applicant's representative also understood the Examiner agreed that claim 1 could be further distinguished over Ash if amended to recite that the database including path-level data is distinct from the database including link-level data. Applicants have added dependent claim 19 to recite this limitation.

Claim 1:

The Office Action has rejected claim 1 under 35 U.S.C. §102(e) as being anticipated by Ash. Claim 1 specifies "providing a database operably coupled to the network server, the

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database including **path-level data** comprising Quality of Service (QoS) information for paths within the network domain and **link-level data**". The Office Action appears to point to col. 1, lines 36-38 of Ash for the proposition that Ash discloses a database including path-level and link-level data. However, this portion of Ash is directed towards describing the OSPF protocol and does not appear to disclose a database including path-level and link-level data. Accordingly, Applicants submit that claim 1 is not anticipated by Ash under 35 U.S.C. §102(e).

Claim 1 has been amended herein to specify "satisfying by the network server the flow request using the link-level data if there is a lack of path-level data and the network server determines the network server cannot satisfy the flow request using the path-level data". Applicants submit that Ash does not provide for using the link-level data if there is a lack of path-level data. As such, claim 1 is not anticipated by Ash under 35 U.S.C. §102(e).

Since claims 2-4 and 19 depend, directly or indirectly, from claim 1, they incorporate all of the terms and limitations of claim 1 in addition to other limitations, which together further patentably distinguish them over the cited references. Therefore, Applicants request that the rejection of claims 2-4 and be withdrawn and that claims 2-4 and 19 be allowed.

Claim 5:

The Office Action has rejected claim 5 under 35 U.S.C. §102(e) as being anticipated by Ash.

Claim 5 specifies, "a plurality of path-level databases" and "a link-level database". Although this is not the identical limitation discussed above in relation to claim 1, it has been rejected on substantially similar grounds. Ash does not appear to disclose having both a "plurality of path-level databases" and "a link-level database." Accordingly, Applicants request that the rejection to claim 5 be withdrawn.

Claim 5 further specifies, "a central network server and a plurality of edge network servers". The Office action appears to point to col. 1, lines 36-38 of Ash for the proposition that Ash discloses a central network server and a plurality of edge network servers. However, this portion of Ash does not appear to disclose a central network server and a plurality of edge network servers. Rather, Ash provides for "an originating or possibly a centralized bandwidth

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broker" (Ash Fig. 1; col. 2, lines 4-5.) Accordingly, Applicants submit that claim 5 is not anticipated by Ash under 35 U.S.C. §102(e).

Since claims 6-9 depend, directly or indirectly, from claim 5, they incorporate all of the terms and limitations of claim 5 in addition to other limitations, which together further patentably distinguish them over the cited references. Therefore, Applicants request that the rejection of claims 6-9 be withdrawn and that they be allowed.

Claim 10:

The Office Action has rejected claim 10 under 35 U.S.C. §102(e) as being anticipated by Ash.

Claim 10 has been clarified, to specify, "satisfying the flow request using the link-level data if there is a lack of path-level data and the flow request cannot be satisfied using the path-level data." As discussed in relation to claim 1, Ash column 5, lines 13-34 do not appear to disclose this limitation. Therefore, Applicants request that the rejection of claim 10 be withdrawn and that it be allowed.

Since claims 11-13 depend, directly or indirectly, from claim 10, they incorporate all of the terms and limitations of claim 10 in addition to other limitations, which together further patentably distinguish them over the cited references. Therefore, Applicants request that the rejection of claims 11-13 be withdrawn and that they be allowed.

Claim 14:

The Office Action has rejected claim 14 under 35 U.S.C. §102(e) as being anticipated by Ash.

Claim 14 has been clarified to specify, "the path-level data being distinct from the link-level data". As such, Applicants submit that claim 14 is not anticipated by Ash under 35 U.S.C. §102(e).

Since claims 15-17 depend, directly or indirectly, from claim 14, they incorporate all of the terms and limitations of claim 14 in addition to other limitations, which together further

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patentably distinguish them over the cited references. Therefore, Applicants request that the rejection of claims 15-17 be withdrawn and that they be allowed.

Claim 18:

Claim 18 has been clarified to specify, "wherein the path-level data and the link-level data is distinct". As such, Applicants submit that claim 18 is not anticipated by Ash under 35 U.S.C. §102(e).

Claim 19:

Claim 19 has been added to specify, "the method of claim 1, wherein the database including path-level data is distinct from the database including link-level data." In view of the foregoing discussion, Ash does not appear to disclose a database including path-level data distinct from the database including link-level data. Accordingly, claim 19 is believed to be allowable.

Conclusion:

In view of the foregoing remarks, Applicants respectfully request allowance of the application. If there are any remaining issues that can be addressed over the telephone, the Examiner is invited to call Applicant's attorney at the number listed below.

Respectfully submitted,
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